

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**





APPEAL OFFICE RECORD

75-7259

Suffolk County Clerk's Index No. 73-1733

New York Supreme Court

Appellate Division - Second Department

FRANK LOWELL,

*Plaintiff-Appellant,*

*-against-*

LEM INSTRUMENT CORP.,

*Defendant-Respondent.*

APPENDIX FOR DEFENDANT-RESPONDENT

SIDNEY S. BOBBE

*Attorney for Plaintiff-Appellant*

36 West 44th Street

New York, New York 10036

682-7218

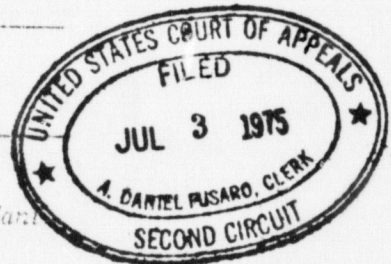
WILLKIE FARR & GALLAGHER

*Attorneys for Defendant-Respondent*

1 Chase Manhattan Plaza

New York, New York 10005

248-1000



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UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT  
Docket No. 75-7259

FRANK LOWELL

v.

TWIN DISC, INC.

EXHIBIT

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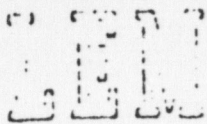
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INSTRUMENT CORPORATION

20 SARAH DRIVE  
FARMINGDALE, NEW YORK 11735  
TEL: 516 293-7240

December 15, 1967

Twin Disc Clutch Company  
1926 Racine Street  
Racine, Wisconsin

Att: Mr. John H. Batten, President

Dear Sir:

I trust you will understand my using this somewhat unconventional way to introduce our company to you.

LEM Instrument Corporation was organized in November 1965 by a group who formerly held top management positions with a leading clutch company and one of its now dissolved subsidiaries. The original intent of this group was solely to exploit several inventions in the microphotography field, but as a result of past successes, opportunities in the precision clutch and brake field presented themselves and LEM Instrument Corporation very quickly gained recognition as a quality supplier to the aerospace market. This was done without any sales effort and with very modest investment so that while the results were spectacular, they were also limited.

Recognizing this, we embarked upon the development of a new, complete precision clutch and brake line, a digital shaft encoder line, and our original optical devices. Concurrently, we set about creating a suitable marketing structure. The enclosed catalog describes the results of our technical effort and while our marketing organization is still in the building stage, considerable preparatory work has been done.

Having come this far, we find that our capital resources are inadequate for our very ambitious, but well conceived plans for explosive growth. Since we prefer rapid growth to slower "bootstrapping", we have decided to seek an alliance with a company in the industrial clutch field believing that such a company can appreciate the depth of our effort and the potential for success better than those in unrelated businesses.

continued . . .

Def. Ex. A; D. App. 2.

Twin Disc Clutch Company

December 15, 1967

This potential is, we feel, greater at present than it has ever been since the demand for precision clutches and brakes is at an all-time high and shows every sign of increasing significantly. To properly take advantage of this opportunity, additional resources are needed now and from an informed source. Consequently, we are receptive to any equitable arrangement that can produce what is required.

Should you find our situation of interest, I would be most pleased to meet with you to explore it in depth and we rely on your discretion in the event that you do not so find it.

We look forward to your reply.

Very truly yours,

LEM Instrument Corporation



F. Lowell  
President

FL:yo  
encl.



Def. Ex. D; D. App. 3.

LEM INSTRUMENT CORPORATION

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FINANCIAL STATEMENTS

for the year ended June 30, 1970

(Unaudited)

LYBRAND, ROSS BROS. & MONTGOMERY

CERTIFIED PUBLIC ACCOUNTANTS

ROCKFORD OFFICE

LYBRAND, ROSS BROS. & MONTGOMERY

CERTIFIED PUBLIC ACCOUNTANTS

COOPERS & LYBRAND

IN AREAS OF THE WORLD  
OUTSIDE THE UNITED STATES

To the Board of Directors  
LEM Instrument Corporation  
Farmingdale, New York

The financial statements of the  
LEM Instrument Corporation included in  
this report have been prepared from the  
books and records of the company without  
audit and we express no opinion on them.

*Lybrand, Ross Bros. & Montgomery*

Rockford, Illinois  
July 15, 1970



Def. Ex. D; D App. 5.

LEM INSTRUMENT CORPORATION  
BALANCE SHEETS, June 30, 1970 and 1969  
(Unaudited)

| ASSETS   | 1970                | 1969               |
|--|---------------------|--------------------|
| Current assets:  |                     |                    |
| Cash   | \$ 8,943.05         | \$ 5,747.44        |
| Accounts receivable, trade   | -                   | 449.68             |
| Receivable from parent, income<br>tax credit (Note A)  | 79,430.79           | 32,271.17          |
| Inventory (Note B)   | 46,181.52           | 23,461.46          |
| Prepaid insurance and deposits   | <u>2,055.00</u>     | <u>1,555.00</u>    |
| Total current assets   | 136,610.36          | 63,484.75          |
| Equipment, at cost   | 22,440.42           | 22,125.63          |
| Less accumulated depreciation  | <u>7,007.23</u>     | <u>3,870.07</u>    |
|  | 15,433.19           | 18,255.56          |
| Deferred research and development ex-<br>penses, less amortization (Note C)                            | <u>36,140.39</u>    | <u>7,819.03</u>    |
|  | <u>\$188,183.94</u> | <u>\$89,559.34</u> |
| LIABILITIES  |                     |                    |
| Current liabilities:   |                     |                    |
| Accounts payable   | \$ 2,755.50         | \$ 1,271.87        |
| Accrued liabilities  | <u>3,521.04</u>     | <u>2,982.90</u>    |
| Total current liabilities  | 6,276.54            | 4,254.77           |
| Notes payable to parent, due on demand<br>after April 17, 1975, interest at<br>6-3/8 percent per annum | 125,000.00          | 75,000.00          |
| Deferred federal income taxes (Note D)   | 18,651.50           | -                  |
| CAPITAL  |                     |                    |
| Capital stock, common, 200 shares<br>authorized, 23 shares issued 1970,<br>18 shares issued 1969       | 137,620.00          | 75,120.00          |
| Paid-in surplus  | 21,641.50           | 21,641.50          |
| Deficit  | <u>(121,005.60)</u> | <u>(86,456.93)</u> |
| Total capital  | <u>38,255.90</u>    | <u>10,304.57</u>   |
|  | <u>\$188,183.94</u> | <u>\$89,559.34</u> |

The notes to financial statements are  
an integral part of this statement.

STATEMENT OF LOSS  
for the years ended June 30, 1970 and 1969  
(Unaudited)

|  | <u>1970</u>            | <u>1969</u>            |
|--|------------------------|------------------------|
| Net sales  | \$ 985.50              | \$23,278.50            |
| Cost of goods sold   | <u>808.96</u>          | <u>23,953.69</u>       |
| Gross profit on sales  | <u>176.54</u>          | <u>(675.19)</u>        |
| Operating expenses:  |                        |                        |
| Salaries and fringe benefits,<br>less overhead applied to<br>inventory | 26,101.60              | 33,632.87              |
| Rent and occupancy   | 3,300.00               | 3,237.64               |
| Utilities  | 1,642.10               | 1,443.27               |
| Amortization of deferred charges                                       | 7,227.87               | 1,303.17               |
| Factory supplies   | 1,087.61               | 1,410.01               |
| Depreciation   | 3,137.16               | 2,930.15               |
| Insurance  | 1,012.00               | 1,425.00               |
| Taxes  | 535.49                 | 82.38                  |
| Other administrative expenses  | 1,328.30               | 741.36                 |
| Advertising  | 6,855.47               | 2,881.30               |
| Travel   | 4,688.20               | 2,835.78               |
| Shipping expense   | <u>-</u>               | <u>122.33</u>          |
|  | <u>56,915.80</u>       | <u>52,045.26</u>       |
|  | (56,739.26)            | (52,720.45)            |
| Interest expense   | <u>6,317.53</u>        | <u>3,700.49</u>        |
| Net loss before federal<br>income tax credit                           | (63,056.79)            | (56,420.94)            |
| Federal income tax credit<br>(Notes A and D)                           | 28,508.12              | 32,271.17              |
| Net loss   | ( <u>\$34,548.67</u> ) | ( <u>\$24,149.77</u> ) |

The notes to financial statements are  
an integral part of this statement.



NOTES TO FINANCIAL STATEMENTS  
(Unaudited)

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- A. Twin Disc, Incorporated, the parent company of LEM Instrument Corporation files a consolidated federal income tax return with its domestic subsidiaries. Consolidated federal income taxes are reduced by the net operating loss and investment tax credit applicable to LEM Instrument Corporation.

These amounts of \$47,159.62 and \$32,271.17 for 1970 and 1969, respectively, have been shown as receivables from the parent on the balance sheet. They are included as federal income tax credits on the statement of loss after having reflected deferred federal income taxes applicable to 1970 amounting to \$18,651.50, as explained in Note D.

- B. A large portion of the inventory relates to new products which have not been sold or produced in large quantities. As a result, this inventory is stated at approximately 90 percent of expected selling price and is based on management's judgment. Costs in excess of this carrying value have been charged against income.
- C. The company is deferring costs that have been incurred in the development of a new product. These costs will be amortized on a straight-line basis so as to be completely amortized by June 30, 1975. The amounts of such unamortized costs were \$36,140.39 and \$7,819.03 at June 30, 1970 and 1969, respectively.
- D. The deferred federal income taxes of \$18,651.50 for 1970 are related to the deferred research and development costs described in Note C above. Research and development costs are expensed as incurred for tax purposes. The federal income tax reductions related to this expense are recognized in the financial statements as the research and development costs are amortized. The balance in the deferred federal income taxes account will be recognized in future years.

Def. Ex. E; D. App. 9.

LEM INSTRUMENT CORPORATION

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FINANCIAL STATEMENTS

for the year ended June 30, 1971

(Unaudited)



LYBRAND, ROSS BROS. & MONTGOMERY

CERTIFIED PUBLIC ACCOUNTANTS

COOPERS & LYBRAND

IN PRINCIPAL AREAS  
OF THE WORLD

To the Board of Directors  
LEM Instrument Corporation  
Farmingdale, New York

The financial statements of the  
LEM Instrument Corporation included in  
this report have been prepared from the  
books and records of the company without  
audit and we express no opinion on them.

*Lybrand, Ross Bros. & Montgomery*

Milwaukee, Wisconsin  
July 21, 1971

LEM INSTRUMENT CORPORATION  
BALANCE SHEETS, June 30, 1971 and 1970  
(Unaudited)

Def. Ex. E;  
D. App. 11.

| ASSETS  | 1971             | 1970             |
|---|------------------|------------------|
| Current assets:   |                  |                  |
| Cash  | \$ 14,105        | \$ 8,943         |
| Accounts receivable, trade  | 5,240            | -                |
| Inventory (Note A)  | 48,891           | 46,182           |
| Prepaid insurance and deposits  | <u>2,072</u>     | <u>2,055</u>     |
| Total current assets  | 70,308           | 57,180           |
| Receivable from parent, income<br>tax credit (Note B)                       | 79,431           | 79,431           |
| Equipment, at cost  | 22,717           | 22,440           |
| Less accumulated depreciation   | <u>10,028</u>    | <u>7,007</u>     |
|   | 12,689           | 15,433           |
| Deferred research and development ex-<br>penses, less amortization (Note C) | <u>69,948</u>    | <u>36,140</u>    |
|   | <u>\$232,376</u> | <u>\$188,184</u> |

LIABILITIES

|  |              |              |
|--|--------------|--------------|
| Current liabilities:   |              |              |
| Accounts payable   | \$ 9,587     | \$ 2,756     |
| Accrued liabilities  | <u>3,550</u> | <u>3,521</u> |
| Total current liabilities  | 13,137       | 6,277        |
| Notes payable to parent, due on demand<br>after April 17, 1975, interest at<br>6-3/8 percent per annum | 212,500      | 125,000      |
| Deferred federal income taxes  | 18,651       | 18,651       |

CAPITAL

|  |                  |                  |
|--|------------------|------------------|
| Capital stock, common, 200 shares<br>authorized, 25 shares issued<br>1971, 23 shares issued 1970 | 162,620          | 137,620          |
| Paid-in surplus  | 21,642           | 21,642           |
| Deficit  | (196,174)        | (121,006)        |
|  | <u>(11,912)</u>  | <u>38,256</u>    |
|  | <u>\$232,376</u> | <u>\$188,184</u> |

The notes to financial statements are  
an integral part of this statement.



Def. Ex. E; D. App. 12.

STATEMENTS OF LOSS AND DEFICIT  
for the years ended June 30, 1971 and 1970  
(Unaudited)

|  | <u>1971</u>          | <u>1970</u>          |
|--|----------------------|----------------------|
| Net sales  | \$26,339             | \$ 986               |
| Cost of goods sold   | <u>21,471</u>        | <u>809</u>           |
| Gross profit on sales  | <u>4,868</u>         | <u>177</u>           |
| Operating expenses:  |                      |                      |
| Salaries and fringe benefits,<br>less overhead applied to<br>inventory | 25,242               | 26,102               |
| Rent and occupancy   | 3,405                | 3,300                |
| Utilities  | 1,865                | 1,642                |
| Amortization of deferred charges                                       | 17,686               | 7,228                |
| Factory supplies   | 2,159                | 1,088                |
| Depreciation   | 3,021                | 3,137                |
| Insurance  | 1,453                | 1,012                |
| Taxes  | 100                  | 536                  |
| Other administrative expenses  | 862                  | 1,328                |
| Advertising  | 7,881                | 6,855                |
| Travel   | 6,021                | 4,688                |
| Shipping expense   | <u>155</u>           | <u>-</u>             |
|  | <u>69,850</u>        | <u>56,916</u>        |
|  | (64,982)             | (56,739)             |
| Interest expense   | <u>10,186</u>        | <u>6,318</u>         |
| Net loss before federal<br>income tax credit                           | (75,168)             | (63,057)             |
| Federal income tax credit<br>(Note A)                                  | <u>-</u>             | <u>28,508</u>        |
| Net loss   | (75,168)             | (34,549)             |
| Deficit, beginning of the year   | <u>(121,006)</u>     | <u>(86,457)</u>      |
| Deficit, end of the year   | ( <u>\$196,174</u> ) | ( <u>\$121,006</u> ) |

The notes to financial statements are  
an integral part of this statement.

STATEMENTS OF CHANGES IN FINANCIAL POSITION  
for the years ended June 30, 1971 and 1970

Ref. Ex. E; D. App. 13.

|   | <u>1971</u>      | <u>1970</u>      |
|---|------------------|------------------|
| Funds were provided by:                                       |                  |                  |
| Issuance of long-term debt                                    | \$ 87,500        | \$ 50,000        |
| Issuance of common stock                                      | 25,000           | 62,500           |
| Addition of deferred income taxes                             | <u>-</u>         | <u>18,651</u>    |
|   | <u>\$112,500</u> | <u>\$131,151</u> |
| Funds were applied to:  |                  |                  |
| Net loss from operations                                      | \$ 75,168        | \$ 34,549        |
| Less expenses not requiring current<br>disbursement of funds: |                  |                  |
| Depreciation of equipment                                     | (3,021)          | (3,137)          |
| Amortization of deferred research<br>and development costs    | <u>(17,487)</u>  | <u>(7,228)</u>   |
| Funds applied to operations<br>for the year                   | 54,660           | 24,184           |
| Additions to equipment  | 277              | 315              |
| Additions to deferred research<br>and development             | 51,295           | 35,548           |
| Increase in account receivable<br>from parent                 | -                | 47,160           |
| Increase in working capital                                   | <u>6,268</u>     | <u>23,944</u>    |
|   | <u>\$112,500</u> | <u>\$131,151</u> |
| Summary of changes in working capital:                        |                  |                  |
| Increase (decrease) in current assets:                        |                  |                  |
| Cash  | \$ 5,162         | \$ 3,196         |
| Inventories   | 2,709            | 22,720           |
| Receivables and other   | <u>5,257</u>     | <u>50</u>        |
|   | <u>13,128</u>    | <u>25,966</u>    |
| Increase (decrease) in current liabilities:                   |                  |                  |
| Accounts payable  | 6,831            | 1,484            |
| Accrued liabilities   | <u>29</u>        | <u>538</u>       |
|   | <u>6,860</u>     | <u>2,022</u>     |
| Increase in working capital                                   | <u>\$ 6,268</u>  | <u>\$ 23,944</u> |

The notes to financial statements are  
an integral part of this statement.



NOTES TO FINANCIAL STATEMENTS  
(Unaudited)

---

- A. A large portion of the inventory relates to new products which have not been sold or produced in large quantities. As a result, this inventory is stated at approximately 90 percent of expected selling price and is based on management's judgment. Costs in excess of this carrying value have been charged against income.

- B. Twin Disc, Incorporated, the parent company of LEM Instrument Corporation, files a consolidated federal income tax return with its domestic subsidiaries. Consolidated federal income taxes are reduced by the net operating loss applicable to LEM Instrument Corporation.

The company has recorded a receivable from the parent for \$79,431, which represents the tax benefits from operating losses included in the 1969 and 1970 consolidated federal income tax returns.

For years ending after 1970, the company will record the federal income tax credits only as its future taxable income is available to offset previous losses. The loss incurred in 1971 can be carried forward to and including 1976.

- C. The company is deferring costs that have been incurred in the development of a new product. These costs will be amortized on a straight-line basis so as to be completely amortized by June 30, 1975. The amounts of such unamortized costs were \$69,948 and \$36,140 at June 30, 1971 and 1970, respectively.

Def. Ex. F; D. App. 15.

LEM INSTRUMENT CORPORATION

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FINANCIAL STATEMENTS

for the year ended June 30, 1972

(Unaudited)

LYBRAND, ROSS BROS. & MONTGOMERY

CERTIFIED PUBLIC ACCOUNTANTS

MILWAUKEE OFFICE



LYBRAND, ROSS BROS. & MONTGOMERY

CERTIFIED PUBLIC ACCOUNTANTS

COOPERS & LYBRAND

IN PRINCIPAL AREAS  
OF THE WORLD

To the Board of Directors  
LEM Instrument Corporation  
Farmingdale, New York

The financial statements of the  
LEM Instrument Corporation included in  
this report have been prepared from the  
books and records of the company without  
audit and we express no opinion on them.

*Lybrand, Ross Bros. & Montgomery*

Milwaukee, Wisconsin  
July 14, 1972

Def. Ex. F; D. App. 17.

LEM INSTRUMENT CORPORATION  
BALANCE SHEETS, June 30, 1972 and 1971  
(Unaudited)

| ASSETS   | <u>1972</u>      | <u>1971</u>      |
|--|------------------|------------------|
| Current assets:  |                  |                  |
| Cash   | \$ 8,248         | \$ 14,105        |
| Accounts receivable, trade   | 8,084            | 5,240            |
| Inventory (Note A)   | 55,189           | 48,891           |
| Prepaid insurance and deposits   | <u>2,124</u>     | <u>2,072</u>     |
| Total current assets   | 73,645           | 70,308           |
| Receivable from parent, income<br>tax credit (Note B)  | 79,431           | 79,431           |
| Equipment, at cost   | 22,264           | 22,717           |
| Less accumulated depreciation  | <u>12,566</u>    | <u>10,028</u>    |
|  | 9,698            | 12,689           |
| Deferred research and development ex-<br>penses, less amortization (Note C)                            | <u>80,255</u>    | <u>69,948</u>    |
|  | <u>\$243,029</u> | <u>\$232,376</u> |
| LIABILITIES  |                  |                  |
| Current liabilities:   |                  |                  |
| Accounts payable   | \$ 5,640         | \$ 9,587         |
| Accrued liabilities  | <u>3,166</u>     | <u>3,550</u>     |
| Total current liabilities  | 8,806            | 13,137           |
| Notes payable to parent, due on demand<br>after April 17, 1975, interest at<br>6-3/8 percent per annum | 137,500          | 212,500          |
| Deferred federal income taxes  | 18,651           | 18,651           |
| CAPITAL  |                  |                  |
| Capital stock, common, 200 shares<br>authorized, 25 shares issued<br>1971, 23 shares issued 1970       | 312,620          | 162,620          |
| Paid-in surplus  | 21,642           | 21,642           |
| Deficit  | (256,190)        | (196,174)        |
|  | <u>78,072</u>    | <u>(11,912)</u>  |
|  | <u>\$243,029</u> | <u>\$232,376</u> |

The notes to financial statements are  
an integral part of this statement.



STATEMENTS OF LOSS AND DEFICIT  
for the years ended June 30, 1972 and 1971  
(Unaudited)

|  | <u>1972</u>          | <u>1971</u>          |
|--|----------------------|----------------------|
| Net sales  | \$ 55,370            | \$ 26,339            |
| Cost of goods sold   | <u>42,068</u>        | <u>21,471</u>        |
| Gross profit on sales  | <u>13,302</u>        | <u>4,868</u>         |
| Operating expenses:  |                      |                      |
| Salaries and fringe benefits,<br>less overhead applied to<br>inventory | 9,318                | 25,242               |
| Rent and occupancy   | 3,720                | 3,405                |
| Utilities  | 1,430                | 1,865                |
| Amortization of deferred charges                                       | 26,751               | 17,686               |
| Factory supplies   | 2,984                | 2,159                |
| Depreciation   | 2,991                | 3,021                |
| Insurance  | 1,687                | 1,453                |
| Taxes  | 262                  | 100                  |
| Other administrative expenses  | 1,136                | 862                  |
| Advertising  | 8,285                | 7,881                |
| Travel   | 5,313                | 6,021                |
| Shipping expense   | <u>103</u>           | <u>155</u>           |
|  | <u>63,980</u>        | <u>69,850</u>        |
|  | (50,678)             | (64,982)             |
| Interest expense   | <u>9,338</u>         | <u>10,186</u>        |
| Net loss   | (60,016)             | (75,168)             |
| Deficit, beginning of the year   | (196,174)            | (121,006)            |
| Deficit, end of the year   | ( <u>\$256,190</u> ) | ( <u>\$196,174</u> ) |

The notes to financial statements are  
an integral part of this statement.

STATEMENTS OF CHANGES IN FINANCIAL POSITION  
for the years ended June 30, 1972 and 1971  
(Unaudited)

|   | <u>1972</u>      | <u>1971</u>      |
|---|------------------|------------------|
| Funds were provided by:                                       |                  |                  |
| Issuance of long-term debt                                    | \$ -             | \$ 87,500        |
| Issuance of common stock                                      | <u>150,000</u>   | <u>25,000</u>    |
|   | <u>\$150,000</u> | <u>\$112,500</u> |
| Funds were applied to:  |                  |                  |
| Net loss from operations                                      | \$ 60,016        | \$ 75,168        |
| Less expenses not requiring current<br>disbursement of funds: |                  |                  |
| Depreciation of equipment                                     | (2,991)          | (3,021)          |
| Amortization of deferred research<br>and development costs    | <u>(26,751)</u>  | <u>(17,487)</u>  |
| Funds applied to operations<br>for the year                   | 30,274           | 54,660           |
| Additions to equipment  | -                | 277              |
| Additions to deferred research<br>and development             | 37,058           | 51,295           |
| Reduction of long-term debt                                   | 75,000           | -                |
| Increase in working capital                                   | <u>7,668</u>     | <u>6,268</u>     |
|   | <u>\$150,000</u> | <u>\$112,500</u> |
| Increases (decreases) in working capital:                     |                  |                  |
| Cash  | \$ (5,857)       | \$ 5,162         |
| Inventories   | 6,298            | 2,709            |
| Receivables and other   | 2,896            | 5,257            |
| Accounts payable  | 3,947            | (6,831)          |
| Accrued liabilities   | <u>384</u>       | <u>(29)</u>      |
| Increase in working capital                                   | <u>\$ 7,668</u>  | <u>\$ 6,268</u>  |

The notes to financial statements are  
an integral part of this statement.



NOTES TO FINANCIAL STATEMENTS  
(Unaudited)

---

A. A large portion of the inventory relates to new products which have not been sold or produced in large quantities. As a result, this inventory is stated at approximately 90 percent of expected selling price and is based on management's judgment.

B. Twin Disc, Incorporated, the parent company of LEM Instrument Corporation, files a consolidated federal income tax return with its domestic subsidiaries. Consolidated federal income taxes are reduced by the net operating loss applicable to LEM Instrument Corporation.

The company has recorded a receivable from the parent for \$79,431, which represents the tax benefits from operating losses included in the 1969 and 1970 consolidated federal income tax returns.

For years ending after 1970, the company will record the federal income tax credits only as its future taxable income is available to offset previous losses. The losses incurred in 1971 and 1972 can be carried forward to and including 1976 and 1977, respectively.

C. The company is deferring costs that have been incurred in the development of a new product. These costs will be amortized on a straight-line basis so as to be completely amortized by June 30, 1975. The amounts of such unamortized costs were \$80,255 and \$69,948 at June 30, 1972 and 1971, respectively.

4/8/69

LEM

## INSTRUMENT CORPORATION

REVISED PROJECTED STATEMENT  
FISCAL YEAR ENDING 6/30/69

|                            |               |                     |
|----------------------------|---------------|---------------------|
| Sales thru 6/28/69         | \$28,800      |                     |
| Additional sales projected | <u>18,000</u> | <i>4500/m</i>       |
| Total Sales                |               | \$38,800            |
| Cost of Sales              |               | <u>32,000</u>       |
| Gross Margin               |               | 6,800               |
| Operating Expenses         | 44,000        |                     |
| Interest Expense           | <u>3,600</u>  |                     |
| Total Expenses             |               | <u>47,600</u>       |
| Net Loss                   |               | ( <u>\$40,800</u> ) |
|                            |               | <i>14,900</i>       |
|                            |               | ( <u>25,900</u> )   |



11/21/61

# LEMMING INSTRUMENT CORPORATION

## Projected Statement of 6 months ending 12/31/62

Sales of Products

\$131,000

## Cost of Sales

|                               |          |
|-------------------------------|----------|
| Payroll                       | \$45,000 |
| Direct Materials              | 20,000   |
| Printing & Stationery         | 200      |
| Supplies & Indirect Materials | 500      |
| Telephone                     | 750      |
| Expendable Tools              | 600      |
| Repairs & Maintenance         | 200      |
| Travel & Related Expenses     | 6,000    |
| Sales & Commissions           | 9,200    |
| Advertising                   | 3,000    |
| Catalogs                      | 1,300    |
| Postage                       | 200      |
| Professional Services         | 750      |
| Utilities                     | 500      |
| State & Local Taxes           | 500      |
| Rent                          | 1,600    |
| Welfare & Fringes             | 9,000    |
| Other Insurance               | 400      |
| Interest Expense              | 2,400    |
| Shipping & Misc.              | 500      |
| Contingency                   | 5,000    |

114,600

Depreciation

1,500

Total Expense

\$116,100

Net Profit

\$ 14,900

5/15/71  
6/13/71

LEM INSTRUMENT CORPORATION  
20 Sarah Drive  
Farmingdale, New York 11735

PROJECTED STATEMENT

F/Y ending 6/30/71

|                                   |          |                |
|-----------------------------------|----------|----------------|
| Sales                             |          | \$200,000      |
| Cost of Sales                     |          |                |
| Salaries & Wages                  | \$97,094 |                |
| Overhead Expenses                 | 71,671   |                |
| Direct Materials                  | 55,000   |                |
| Tooling Expenses                  | 20,000   |                |
| Foreign Patents                   | 3,500    |                |
|                                   |          | <u>247,265</u> |
| Loss Before Inventory Build-up    |          | (\$ 47,265)    |
| Inventory Increase to 6/30/71     |          | <u>99,800</u>  |
| Projected Profit for Fiscal 70-71 |          | \$ 52,535      |

Cash Flow:

Asset Build-up F.Y. 1970-71

|                        |                |               |
|------------------------|----------------|---------------|
| Inventory              | \$ 99,800      |               |
| Research & Development | 30,000         |               |
| Accounts Receivable    | <u>180,000</u> | 309,800       |
| Less:                  |                |               |
| Net Profit             | 52,535         |               |
| Collections on A/R     | 20,000         |               |
| Depreciation           | <u>5,000</u>   | <u>77,535</u> |
| Cash Need              |                | \$232,265     |



LEM INSTRUMENT CORPORATION  
20 Sarah Drive  
Farmingdale, New York 11735

PROJECTED CASH FLOW

F/Y ending 6/30/71

(\$ x000's)

| <u>Year Quarter</u> | <u>1</u> | <u>2</u> | <u>3</u> | <u>4</u> | <u>Year End</u> |
|---------------------|----------|----------|----------|----------|-----------------|
| Wages               | 23       | 24       | 25       | 25       | 97              |
| O/H                 | 16       | 18       | 19       | 19       | 72              |
| Mat'l.              | 8        | 15       | 17       | 15       | 55              |
| Tooling             | 4        | 8        | 3        | 5        | 20              |
| Pat. Cost           | 1        | 3        | --       | --       | 4               |
| Total Cash Out      | 52       | 68       | 64       | 64       | 248             |
| Depreciation        | 1        | 1        | 1        | 2        | 5               |
| Cash from Customers | --       | --       | 3        | 17       | 20              |
| Sales               | --       | 25       | 55       | 120      | 200             |
| Net Cash Req'd.     | 51       | 67       | 60       | 45       | 223             |

Def. Ex. P; D. App. 25.

LEM INSTRUMENT CORPORATION  
20 Sarah Drive  
Farmingdale, New York 11735

PROJECTED O/H EXPENSES

F/Y ending 6/30/71

|                         |                |
|-------------------------|----------------|
| Administration          | \$ 1,400       |
| Advertising & Selling   | 12,400         |
| Sales Commissions       | 150            |
| Taxes                   | 200            |
| Rent & Occupancy        | 3,900          |
| Utilities               | 2,700          |
| Factory Supplies        | 1,500          |
| Depreciation            | 5,000          |
| Welfare & Fringes       | 19,421         |
| Insurance               | 800            |
| Travel & Auto           | 10,000         |
| Research                | 4,200          |
| Total Operating Expense | <hr/> \$61,671 |
| Interest                | 10,000         |
| Total Expense           | <hr/> \$71,671 |



NOTE: -- INVENTORY BUILD-UP

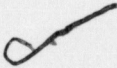
An order is imminent from Westinghouse relating to the Mark 45 torpedo for one of the following quantities of clutches:

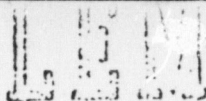
| <u>Quoted</u> | <u>Sales</u> | <u>Inventory Reduction</u> |
|---------------|--------------|----------------------------|
| 66 @ \$80.00  | \$ 5,280.00  | \$ 4,224.00                |
| 132 @ 75.00   | 9,900.00     | 7,920.00                   |
| 264 @ 75.00   | 19,800.00    | 15,840.00                  |
| 396 @ 75.00   | 29,700.00    | 23,760.00                  |

I did not know how to handle the cumulative inventory build-up for fiscal 1970-71 and account for the estimated \$43,971 as of 30 June 1970.

Therefore, I treated 1970-71 based on encoder sales only.

We could, at worst, carry the \$43,971 all year or, -- possibly reduce it by \$23,700.00 or better.





# INSTRUMENT CORPORATION

7/65

20 SARAH DRIVE  
FARMINGDALE, NEW YORK 11735  
TEL: 516 293-7240

Def. Ex. Q; D. App. 27.

## PROJECTED STATEMENT OF INCOME & COST OF SALES YEAR ENDING JUNE 30, 1969

Sales of Products

\$300,000

### Cost of Sales

|                               |          |
|-------------------------------|----------|
| Payroll                       | \$95,000 |
| Direct Materials              | 60,000   |
| Printing & Stationery         | 500      |
| Supplies & Indirect Materials | 1,000    |
| Telephones                    | 1,400    |
| Expendable Tools              | 1,500    |
| Repairs & Maintenance         | 500      |
| Travel & Related Expenses     | 12,000   |
| Sales Commissions             | 21,000   |
| Advertising                   | 6,000    |
| Catalogs                      | 2,500    |
| Postage                       | 400      |
| Professional Services         | 1,800    |
| Utilities                     | 1,000    |
| State & Local Taxes           | 1,000    |
| Rent                          | 3,000    |
| Welfare & Fringes             | 21,000   |
| Plant Improvements            | 800      |
| Insurance other than Welfare  | 800      |
| Interest Charges              | 4,800    |
| Shipping & Misc.              | 1,000    |
| Contingency                   | 10,000   |

\$247,000  
3,000

Depreciation

Total Expense

250,000

Net Profit

\$50,000



TO The Board of Directors

DATE 29 Nov. 1971

Def. Ex. R; D. App. 28.

D. Financial Plan

1. Projected Sales & Profit for 8 Months & 12 Months ending 30 June 1972

|                                 | <u>Next 8 Mos.</u> | <u>All 12 Mos.</u> |
|---------------------------------|--------------------|--------------------|
| Sales                           | \$ 121,300         | \$ 132,600         |
| Operating Expenses              |                    |                    |
|                                 | <u>Next 8 Mos.</u> | <u>All 12 Mos.</u> |
| Salaries & Wages                | 56,000             | 85,000             |
| Overhead                        | 27,000             | 40,000             |
| Materials                       | <u>16,000</u>      | <u>21,000</u>      |
|                                 | <u>99,000</u>      | <u>146,000</u>     |
| Profit ( Loss ) from Operations | <u>22,300</u>      | <u>( 13,400 )</u>  |

2. Monthly Sales- Actual & Projected

|           | <u>Actual</u> | <u>Projected</u> | <i>Cur</i> |
|-----------|---------------|------------------|------------|
| July 1971 | 1,500         |                  |            |
| Aug       | 7,100         |                  |            |
| Sept      | 1,700         |                  |            |
| Oct       | 1,000         |                  |            |
| Nov       |               | 3,500            | 11,300     |
| Dec       |               | 5,000            | 14,800     |
| Jan 1972  |               | 6,500            | 19,800     |
| Feb       |               | 11,000           | 26,600     |
| Mar       |               | 16,000           | 37,600     |
| Apr       |               | 21,000           | 53,600     |
| May       |               | 27,000           | 74,600     |
| Jun       |               | <u>31,000</u>    | 101,600    |
|           | 11,300        | 121,300          | 132,600    |

Def. Ex. T; D. App. 29.

RAY LAWSON

ASSOCIATES

POST OFFICE BOX 206, WENONAH, N. J. 08090

609 697-1415

REPRESENTATIVES

ELECTRONIC AND ELECTRO-MECHANICAL  
COMPONENTS AND SYSTEMS

November 17, 1970

Mr. F. Lowell  
LJM Instrument Corporation  
20 Sarah Drive  
Farmingdale, New York 11735

Dear Mr. Lowell:

After perusal of the product literature you forwarded, I am very much interested in further discussing representation with you.

Appreciable effort is already being directed toward industry which should have interest in and potential for LJM and my previous association with a similar product affords me a knowledgeable background for searching out applications.

This week's schedule takes me out of town until Thursday night but I expect to be in the office all day Friday. Perhaps we could plan to meet for discussion the early part of next week.

Very truly yours,

RAY LAWSON ASSOCIATES

*C. R. Lawson*  
C. R. Lawson

CRL:L

*After discussion with Mr. Lowell, will visit  
with him in Farmingdale on Tuesday.*



Mr. Roy Anderson

LEAD

20 SARAH DRIVE  
FARMER GATE, NEW YORK 11774  
TEL: 516 293 7240

Def. Ex. T; D. App. 30.

DATE

11/10/70

Reply Messag

THE AMBASSADOR OF THE UNITED STATES OF AMERICA

Per our telephone conversation, I enclose  
copies of our literature.

SIGNED

T. LOWELL

DATE OF FILE

OFFICE

NOTED

**RAY LAWSON**

ASSOCIATES

POST OFFICE BOX 206, WENONAH, N. J. 00090

600 857-1515

REPRESENTATIVES

8 North Lincoln Ave.

ELECTRONIC AND ELECTRO-MECHANICAL  
COMPONENTS AND SYSTEMS

August 18, 1972

Mr. Frank Lowell  
IBM Instrument Corporation  
20 Sarah Drive  
Farmingdale, New York 11736

Dear Mr. Lowell:

Confirming our recent telephone conversation we are forwarding further information for your guidance and assessment.

As you may recall I had previously represented Northern Precision Laboratories, prior to their establishment of a direct salesman, and during that course of time acquired one of the largest contracts (in excess of \$350,000.) of their history.

Ray Lawson Associates was formed as a proprietorship in January, 1967, after disassociation from a manufacturers' representative firm operating out of New York.

My association with that firm covered a period of six years and territorial responsibility included Eastern Pennsylvania, Southern New Jersey, Delaware, Maryland, D.C., and Virginia for an average of fifteen product lines. In the course of that time, annual sales in my area developed from approximately \$125,000. to more than \$650,000. First year sales of Ray Lawson Associates totaled in excess of \$675,000; this accomplished with a sharp curtailment in the number of product lines carried.

It is my intent to exercise continued restraint in the number and nature of Principals served, concentrating in the field of electronic and electromechanical components and systems for industrial, commercial, and military applications.

Listed on a separate sheet are the companies currently represented along with the product mix. No conflict of interest whatsoever is visualized. Recognizably, these products are developing substantial interest in the industrial and test instrumentation fields, and in machinery and automation industries.

This office maintains

- a complete file system referencing customer and project involvement.
- a card file of active customer personnel, including area of responsibility. Direct mailings are made on a selective basis.
- eight field books listing all firms of interest within the territory, these broken down by work areas, plus a territorial index book to facilitate efficient periodic contact.



Def. Ex. U; D. App. 32.

RAY LAWSON ASSOCIATES

(2)

Mr. Frank Lowell  
LEM Instrument Corporation

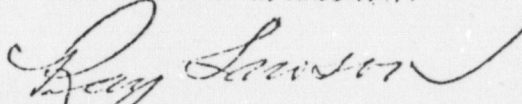
August 18, 1972

Brief or detailed information, as suitable, is reported regarding customer or territorial activity deemed to be of interest to a Principal. Close cooperation is given and expected.

My approach to sales representation is not that found among most representatives and I feel a thorough deliberation will reveal that a beneficial association can be resolved between us.

Very truly yours,

RAY LAWSON ASSOCIATES

  
C. A. Lawson

CRL:L  
Enclosures

DEFENDANT'S EXHIBIT "C"  
FOR IDENTIFICATION

Def. Ex. V; D. App. 33.

9/1/73 & J//  
REYNOLDS & ASSOCIATES, Inc.

ENGINEERING & SALES REPRESENTATIVES

Computers • Peripherals • Instrumentation • Components

822 E. Strachbrdge Ave., Melbourne, Fla. 32901 Phone 305/727-3205  
TWX 510/959-6011

16 December 1971

Lem Instrument Corporation  
20 Sarah Drive  
Farmingdale, New York 11735

Attention: F. Lowell, Sales Manager

Gentlemen:

I have read with interest your advertisement in Electronic News, concerning your requirement for representation in the Southeast.

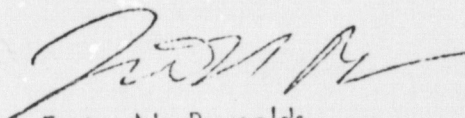
We have had a considerable amount of experience in the field of shaft encoders and digital readout systems. Our present lines are also quite compatible with these types of products. W-21

What specific information do you require on our organization? I would like to pursue the matter further in the very near future.

I am looking forward to hearing from you soon.

Very truly yours,

REYNOLDS & ASSOCIATES, INC.



Foster N. Reynolds  
President

FNR:pah

BRANCH OFFICE LOCATIONS

Atlanta, Ga

LA Embury, Fla

Greensboro, NC

Huntsville, Ala

Orlando, Fla

Plantation, Fla



REYNOLDS & ASSOCIATES, INC.  
ENGINEERING & SALES REPRESENTATIVES  
Computers • Peripherals • Instrumentation • Components

8/10/73  
EJ  
222 E. Street Bridge Ave., Melbourne, Fla. 32901 Phone 205-727-7203  
TWA 510-260-0000

Ex. W; D. App. 34.

19 May 1972

8 people

LEM Instrument Corporation  
20 Sarah Drive  
Farmingdale, New York 11735

Attention: F. Lowell, Sales Manager

Dear Mr. Lowell:

Reference is made to our previous correspondence concerning the possibility of representing your organization in the Southeast.

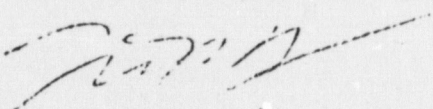
Some time has elapsed since our last contact, and I am wondering whether or not you have made a decision in this area.

I will be happy to supply any specific data you may require on Reynolds & Associates, Inc.

May I hear from you with your present thoughts on the matter.

Very truly yours,

REYNOLDS & ASSOCIATES, INC.

  
Foster N. Reynolds  
President

FNR:pah

BRANCH OFFICE LOCATIONS

Atlanta, Ga

Fort Lauderdale, Fla

Greensboro, N.C.

Huntsville, Ala

Orlando, Fla

Plantation, Fla

5/22/72 - 2 copies to Mr. [illegible]

Def. Ex. X; D. App. 35.

20 CANAL DRIVE  
JAMAICA, N.Y. 11433  
TEL: 516 293-7240

L.H. 11 Literature.

DATE

5/22/72

Reply Message

Re: our telecon, I enclose some of our  
literature. Please let me know if  
you are interested in pursuing the  
possibility of representation.

DEFENDANT EXHIBIT "E"  
FOR IDENTIFICATION  
7/1/72

SIGNED

F. LOWELL

DATE OF REPLY

REPLY TO



Def. Ex. Y; D. App. 36.

b.c.: Mr. John H. Batten  
Mr. R. T. Howell  
Mr. D. E. Beaton  
Mr. M. E. Batten  
Mr. R. S. Gibbs

7 August 1972  
(dictated via telephone)

LEM Instrument Corporation  
20 Sarah Drive  
Farmingdale, New York 11735

ATTENTION: Mr. Frank Lowell  
President

SUBJECT: 1972-73 FISCAL YEAR PROGRAM  
My letter of 24 July 1972

Dear Frank:

In telephoning Evie this morning I learned that there had been no response from you to my subject letter. I am very disappointed and would like a note as to the earliest possible date we will receive your report.

Have you been able to contact Jim Shiver concerning the encoder under test by the Navy at Providence, R.I.? I am also quite anxious to learn the results of this call.

Sincerely,

TWIN DISC, INCORPORATED

Wilton B. Gibson  
Consultant

WBG:eb

January 10, 1969

Mr. Frank Lowell  
Lem Instrument Corp.  
20 Sarah Drive  
Farmingdale, New York 11735

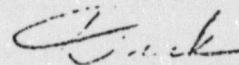
Dear Frank:

It was nice to chat with you by phone again and I know you appreciate that I am really not trying to "push". As I have written to Bob Everett, it would seem to make sense to date both your policy and his currently and I have chosen January 15, 1969. This will require that your policy be issued at age 45 and will change the premium to \$932.66, including the premium for the waiver of premium provision.

As you recall the premiums are to be paid by your corporation and then will constitute additional compensation to you and Bob.

I would ask that you review Mr. Custer's letter of December 17, 1968 and follow through on that basis. Then if you have any question don't hesitate to give him a ring.

Sincerely yours,



Richard P. McGuire, CLU

RPM/kjl

Enclosure



February 7, 1969

Mr. Frank Lowell  
Lem Instrument Corp.  
20 Sara Drive  
Farmingdale, New York 11735

Dear Frank:

When you and I talked the other day, you indicated that the pressure might be easing up a little and that you hope to get your examination completed and the two parts of the insurance application on their way to me. At that time I mentioned that because of the delay it might be necessary for Bob Everett to complete a health certificate. I am writing to him and enclosing such a health certificate, which I trust he can sign and complete without any complication.

It is my hope further that this whole transaction can be completed during the next week or so. Thank you again for your cooperation.

Sincerely yours,

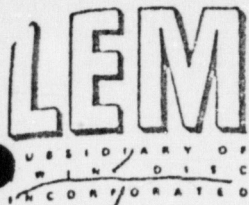


Richard P. McGuire, CLU

RPM/kjl

Enclosure

Def. Ex. AA; D. App. 39.



## INSTRUMENT CORPORATION

20 SARAH DRIVE • FARMINGDALE, NEW YORK 11735 • TEL: 516 293-7240

June 18, 1969

Mr. Richard P. McGuire  
Massachusetts Mutual Life Insurance Company  
P.O. Box 337  
Racine, Wisconsin 53401

Dear Dick:

We have carefully reviewed our benefits program here at LEM and I am sorry to inform you that we have decided not to proceed with life insurance coverage at this time.

Your efforts are greatly appreciated and hopefully, we will be contacting you in the near future to ask you to proceed.

Sincerely,

LEM Instrument Corporation

F. Lowell



Def. Ex. AA; D. App. 40.

September 25, 1969

Mr. Frank Lowell  
Lem Instrument Corp.  
20 Sarah Drive  
Farmingdale, New York 11735

Dear Frank:

A little more than a year ago Mr. Robert T. Howell of Twin Disc authorized me to work with you so that you and your associate, Mr. Everett, could participate in the Key-man insurance program, similar to the plan in operation at Twin Disc. This letter is intended to remind you that it would be advantageous to get this plan in operation as early as possible.

If you refer to previous correspondence, you can put the plan into operation and of course I will be only too happy to cooperate with you.

If you have any questions at all, please don't hesitate to let me know. I trust that everything is going well with you and your business.

Sincerely yours,



Richard P. McGuire, CLU

RPM/kjj

Bob

I may not make it  
back this afternoon. Please  
look up @ 5.





Please send:

5 ea Dutch Catalog  
15 ea Encoder "  
15 ea EDS 170  
15 ea DCM 270

to

Reynolds & Associates, Inc  
~~2225 1st St~~  
at 7 offices  
listed:

1) 822 E. Shalbridge Ave  
McLennan, Tex 32701 ✓

2) 4304 Banders Terrace  
San Ramon, Calif  
Bradford, Fla 33505 ✓

3) 401 Fennell Drive, Suite 4  
Hill, Ala 35601 ✓

4/ 111 S.W. 75 Ave  
Fl, Landdale, Fla 3341 ✓

(over)

5/ 15 W. Wiener Rd, N.E. Suite 130  
Atlanta, Georgia 30342 ✓

6/ 412 W. Market St.  
Greensboro, N.C. 27401 ✓

7/ 320 S.W. 75<sup>th</sup> Terrace  
Plantation, Fla. 33314 ✓



1206

6/16/72

Order 51 piece  
of 120 (min) disc  
for inventory.

f



INSTRUMENT CORPORATION

20 SARAH DRIVE • FARMINGDALE, NEW YORK 11735 • TEL: 516 293-7240

SUBSIDIARY OF  
TWIN DISC  
INCORPORATED

Sept. 3, 1972

Mr. Wilton B. Gibson  
Twin Disc Incorporated  
1328 Racine St.  
Racine Wisc. 53403

Dear Bill:

Just another chapter to keep you informed on the happenings at LEM,  
as you have requested.

Lowell returned to work Monday and chose to ignore my presence all week.  
However, when he returned from lunch on Friday, he asked to see me in his  
office.

When I entered his office he became very abusive and said "You are a thief  
and a cheat. You removed the typewriter ribbon from the machine and read  
it. I wrote a confidential letter to John Batten and I want the ribbon  
returned!"

I told Lowell that I had been typing purchase orders, the ribbon jammed  
(as it has done many times before) and I fixed it. I did not read the ribbon,  
I threw the old ribbon in the garbage and if he wanted it he could get it.  
He did Not.

I removed the tape from the garbage (which Bill and Arnold witnessed), took  
it into Frank's office and put it on his desk. He again became Loud and  
abusive and told me to take the tape and get out of his office or he would  
throw me out bodily or call the police??????

After a few more unpleasant verbal exchanges, I told Frank if this tape was  
so important I was going to give it to John Batten myself; I removed the tape  
from his desk and left the office. I have the tape in my possession now.

Well Bill, on Friday I was furious, however, now on Sunday morning as I sit home  
and am writing this to you, I can find the humor in this thing. Evidently  
Lowell's accusations would indicate that he has been wasting his time for  
four years reading typewriter ribbons.

I close now and look forward to seeing you in the near future.

Sincerely,  
LEM Instrument Corp.

Robert A. Everett  
Vice President



MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY

SPRINGFIELD, MASSACHUSETTS 01103

Ex. JJ; D. App. 46.

RICHARD P. MCGUIRE, C.L.U., DISTRICT MANAGER  
SUITE 501, MAIN-LAKE BUILDING  
425 MAIN STREET  
RACINE, WISCONSIN 53403

WM. J. NELSON, JR., C.L.U.  
GENERAL AGENT  
MILWAUKEE, WISCONSIN

PLEASE REPLY TO: P. O. BOX 337, RACINE, WISC. 53401

(414) 633-3586

January 10, 1969

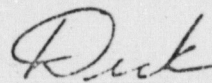
Mr. Robert A. Everett  
Lem Instrument Corp.  
20 Sarah Drive  
Farmingdale, New York

Dear Bob:

Enclosed is the Part I for your signature. The policy has been issued but as I explained to you it was dated way back in May. We are returning that policy and your new policy will be issued as of January 15, 1969. The annual premium will be \$445.10. The corporation's check for this amount should be made payable to Massachusetts Mutual Life Insurance Company, and sent to me along with your signed Part I in the enclosed envelope. As soon as we get everything straightened out I am sure that Bob Rouze will be glad to check with you on how they handle the withholding, etc., at Twin Disc.

I am writing a separate letter to Frank, I certainly hope that he will be able to go ahead soon.

Sincerely yours,



Richard P. McGuire, CLU

RPM/kjl

Enclosures

**LEM** INSTRUMENT CORPORATION

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20 SARAH DRIVE  
FARMINGDALE, NEW YORK 11735  
TEL: 516 293-7240

January 15, 1969

Mr. Richard P. McGuire  
Massachusetts Mutual Life Insurance Company  
Main-Lake Building-425 Main Street  
Racine, Wisconsin 53403

Dear Dick:

I received the necessary paper work to complete our transaction this week. I should like to hold up on this for a short time, to allow for Frank and I to complete same together.

Sincerely yours,

*Robert A. Everett*

Robert A. Everett, V.P.



MINUTES OF A SPECIAL MEETING OF THE SHAREHOLDERS  
OF LEM INSTRUMENT CORPORATION

A meeting of the shareholders was convened by John H. Batten, President of Twin Disc, Incorporated, sole shareholder of LEM Instrument Corporation, in the office of Twin Disc, Incorporated in Racine, Wisconsin on October 4, 1972 at 11 a.m. Present in addition were Robert T. Howell and Wilton B. Gibson. After discussion it was

RESOLVED that the best interests of the company will be served by the removal of Frank Lowell and Robert Everett as members of the Board of Directors. Therefore, it is

FURTHER RESOLVED that Frank Lowell and Robert Everett be and they are hereby removed as members of the Board of Directors effective immediately and that the vacancies thereby created not be filled at this time.

WAIVER AND CONSENT

The undersigned being the sole shareholder of LEM Instrument Corporation, a New York Corporation, does hereby waive notice of the time and place of a special meeting of the shareholders and consent to the adoption of the above and foregoing Resolutions as and for the minutes and Resolutions adopted at said meeting, herewith adopting the same as such Resolution and minutes.

This document, incorporated  
Sole Shareholder

Dated this 4th day of October 1972

By: John H. Batten

MINUTES OF A SPECIAL MEETING OF THE BOARD OF  
DIRECTORS OF LEM INSTRUMENT CORPORATION

A special meeting of the Board of Directors of LEM Instrument Corporation was held in the offices of Twin Disc, Incorporated, Racine, Wisconsin on the 4th day of October 1972, commencing at approximately 11:15 a.m. Present were John H. Batten, Robert T. Howell and Wilton B. Gibson, members of the Board.

The Directors heard the report of Wilton B. Gibson as to circumstances surrounding and leading up to the unauthorized discharge of Robert Everett by Frank Lowell together with the general review of the failure of the company to meet its anticipated goals. After discussion it was

RESOLVED that Frank Lowell and Robert Everett are herewith terminated for cause as employees and officers of LEM Instrument Corporation effective immediately.

FURTHER RESOLVED that Wilton B. Gibson and Robert T. Howell, either or both of them, are authorized to negotiate with Frank Lowell and Robert Everett with respect to the possible acquisition by them, or either of them, of the assets of LEM Instrument Corporation and also in relation to their employment contract and to agree upon and to accept such terms and conditions with respect thereto as they deem appropriate with the advice and approval of Counsel and of representatives of Twin Disc who have an interest therein.



FURTHER RESOLVED that the authority of FRANK LOWELL and ROBERT EVERETT to sign checks on the corporation's bank accounts or to borrow money or to engage in any other banking transaction in behalf of the corporation is revoked effective immediately and that the Board herewith adopts the standard banking resolution of the Franklin National Bank, East Farmingdale, New York, which resolution shall authorize Wilton B. Gibson or Robert T. Howell singly to sign checks, notes, and similar orders on behalf of the corporation and that Wilton B. Gibson, Chairman of the Board, is authorized to certify to the Bank a copy of this resolution, and said banking Resolution.

FURTHER RESOLVED that Wilton B. Gibson as Chairman of the Board is authorized to take such steps as he deems reasonable to bring to a termination the business of LEM Instrument Corporation as expeditiously as possible and to take such steps as he deems appropriate to protect the interests of the company and its assets.

FURTHER RESOLVED that Wilton B. Gibson, Chairman of the Board, shall personally certify Frank Lowell and Robert Everett of the foregoing actions taken by the Board of Directors as soon as reasonably practical.

There being no further business to come before the Board, the meeting was adjourned.



# LEM INSTRUMENT CORPORATION

20 SARAH DRIVE • FARMINGDALE, NEW YORK 11735 • TEL: 516 243 7249

Def. Ex. QQ; D. App. 51.

February 18, 1972

TO: Mr. Frank Lowell

SUBJECT: SHAFT ENCODER LITERATURE

Dear Frank:

I would like to point out a few examples where I think more details and application data would help us increase our market penetration.

Hughes Aircraft Industrial Products Division (Oceanside, California) are manufacturing resistance welding devices for very fine wires for integrated circuits, etc. Bill Hill, Engineer, requests application data showing how our encoder works in conjunction with preset positioners. He would like to incorporate in his machine.

Burke Porter Machinery Company, Grand Rapids, Michigan, would have an easier time using our encoders and preset comparator if we had application data on the coupling to use, load contacts available, coincidence light, size and shape, wire size including O.D., and ability to pull our wire through conduit with other wires. Also, information on mating plugs would be helpful.

Aerojet General Corp., Frederick, Maryland, Howard Miller, said he could not consider using our encoder for his auto stacking system without further engineering details. They are currently using contacting encoders. You have a memo on this.

Of course, Automated Functions of Bladensburg, Maryland, John Moddock, wanted pictures of our wave shape taken from oscilloscope patterns so he could properly interface with his electronics. He also liked the three type of industrial cases provided by Trump Ross which showed various types of shaft loading and allowed environmental and shock protection.

Again, we would have made better progress with Eanco, Hatboro, Pa., if we could have made our story more credulous with supporting facts and figures.

Estimate life figures are on most encoder manufacturers' literature. I think this lack on our information may sometimes be a deterrent to our securing business. For example, Bob Godz of Boyston Engineers of Chicago, is going to select LEM because we have longer life. If he asks us to put "longer life" in writing, we are going to have a sticky wicket.

Best regards.

Gordon Danhof/i6

cb



X

Mr. W. B. Gibson

February 28, 1972  
(typed 3/29/72)

NOTES FROM VISIT TO LEM (2-22-72 and 2-23-72)

Dear Bill:

I thought I would pass on a few observations and thoughts about LEM.

- (1) Everett and I had dinner together 2-22-72 at his request. He wants to give the machinist, Bill, a raise of \$15 per week and Frank will not approve. He also feels Lowell is trying to get him to resign. He wants your opinion of what Frank's legal position would be if Everett did resign. Would Lowell's contract be still in force? He voluntarily told me many things. I told him he should talk to you. I feel he is loyal to Twin Disc and we can depend on him to remain loyal if this is our wish.
- (2) Joe Samuel and Bob were both after Frank to Life Test encoders so that data could be published.
- (3) Frank asked me not to write any more memos like the one I wrote 2-18-72 entitled "Shaft encoder literature". He said "these things should be verbal" as too many people question him about them. Further proof of the need for literature is shown by one encoder bought by Sandia Corp., Albuquerque, N.M. for which they bought an E.R.C. comparator. They are having trouble interfacing our encoder with the ERC unit. If Frank had published the data sheet on comparators I wrote November '71, we could have sold the comparator, too.
- (4) We are going to to through a traumatic session with our customer in Grand Rapids, Michigan because we must now clarify what we have sold them. Frank is taking a rather stubborn attitude about this. He cannot place himself in a position to see what the customer needs. The customer is Burke Porter Machinery Co. I feel this exercise may end up helpful if Frank will see what is needed to operate machinery. Again, we need printed literature and specs.
- (5) I am encouraged by an order for 10 more encoders which came in while I was in New York. Customer is P.A.R., Minneapolis.

(continued)

NOTES FROM VISIT TO LEM (2-22 & 2-23-72)

2-23-72

- (6) I am also encouraged by call backs to LEM from Texas Instruments for clutches. They asked for me first which shows my calls were effective. Sperry Rand from Phoenix sent prints for clutches into LEM.
- (7) Frank appears willing to pursue M & M Precision's rotary table control.

Gordon Danhof

eb



Def. Ex. WW; D. App. 54.

PERSONAL & CONFIDENTIAL

20 January 1972

Mr. Frank Lowell  
Lem Instrument Corporation  
20 Sarah Drive  
Farmingdale, New York 11735

Dear Frank:

Your December 1971 report arrived yesterday, the day after my letter follow-up was dictated.

It is gratifying to see your actual sales for six months exceeding forecast by \$1370 but it does appear that it will be tough sledding from here on in through 30 June 1972 to meet the forecast of \$132,000.

The forecasted acceleration in sales from January through June was obviously based upon your plan to have three territories signed up with sales reps by 31 December and the entire country by the end of March 1972.

Since this portion of your plan has failed to materialize as of 15 January, the date of your report, I find it hard to believe you will attain the increased direct sales exposure in time to meet your sales forecast through June.

I sincerely believe your sales projections could have been met with the increased exposure planned and for that reason I find the light treatment in your report of this important subject to be unsatisfactory. Your Board approved your plan and willingly authorized the funding of it.

I think we should know:

- a) How many replies you have received.
- b) How many have been interviewed and why they were rejected.
- c) Your current schedule and the possibility of being on schedule by 31 March.

(continued)





Mr. Frank Lowell

20 Jan 72

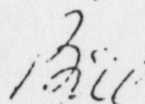
Ex. WW; D. App. 55.

d) How the delay in this plan will affect your sales projections through 30 June.

Frank, I must have this kind of support from you as your intermediary. I'm leaving too much of my britches on the fence.

Sincerely,

THIN DISC, INCORPORATED



Hilton B. Gibson  
Vice President  
Corporate Development

MBG:eb